



DEPARTMENT OF TRANSPORTATION
MATERIALS TRANSPORTATION BUREAU
WASHINGTON, D.C. 20590

50006

[49 CFR Part 177]

[Docket No. HM-164; Advance Notice]

CARRIAGE BY PUBLIC HIGHWAY

**Highway Routing of Radioactive Materials;
Public Hearing**

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of public hearing.

SUMMARY: This publication announces the scheduling of a public hearing for the purpose of receiving oral comments on matters concerning highway routing of radioactive materials which were opened for discussion in Docket HM-164, 43 FR 36492, August 17, 1978. This will be an informal rather than a judicial or evidentiary-type hearing and there will be no cross-examination of persons presenting statements.

DATES: The date of the hearing is November 29, 1978, from 9:30 a.m. to 5 p.m. Any person wishing to present an oral statement at the hearing should notify the Dockets Branch in writing prior to November 16, 1978.

ADDRESSES: The hearing will occur in the third floor auditorium of Federal Office Building 10 located at 800 Independence Avenue SW., Washington, D.C. Requests for time to make an oral presentation must be addressed to Dockets Branch, Information Services Division, Materials Transportation Bureau, Research and Special Programs Administration, U.S. Department of Transportation, Washington, D.C. 20590. Each request should identify the speaker and the length of the presentation, not to exceed 7 minutes.

**FOR FURTHER INFORMATION,
CONTACT:**

Douglas A. Crockett, 202-426-2075.

SUPPLEMENTARY INFORMATION: On April 20, 1978, the MTB published an opinion (43 FR 16954) concerning the legal relationship between section 175.111 of the New York City health code and regulations issued by DOT under the Hazardous Materials Transportation Act (HMTA, Title I of Pub. L. 93-633). § 175.111 of the city's health code prohibits the transportation in or through the city of most commercial shipments of radioactive

materials. The HMTA is the basic Federal legislation under which the transportation safety of hazardous materials, including radioactive materials, is regulated. In the opinion, MTB concluded that HMTA routing authority is sufficient to preempt State and local highway routing requirements (see HMTA, sections 105, 112; 49 U.S.C. 1804, 1811), but that because a routing requirement has not yet been established under the HMTA, that act does not at present preempt § 175.111 of the city's health code.

On August 17, 1978, the Materials Transportation Bureau (MTB) published Docket HM-164, an Advance Notice of Proposed Rulemaking. The purpose of the Advance Notice was to invite comment on the need, and possible methods for establishing routing requirements applicable to highway carriers of radioactive materials under the Hazardous Materials Transportation Act. The Advance Notice and this public hearing are intended to assist the MTB in deciding what Federal action may be justified in light of local ordinances which have been or may be enacted and which restrict or halt the movement of radioactive materials in some localities.

Copies of the Advance Notice of Proposed Rulemaking may be obtained from the Dockets Branch at the address given above. Written comments may still be submitted concerning the Advance Notice of Proposed Rulemaking if received by the Dockets Branch on or before January 1, 1979. Copies of oral statements should be submitted to the hearing officer at the time of the presentation.

AUTHORITY: 49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) of app. A to part 106.

Issued in Washington, D.C. on October 18, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

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